

UNITED STATES OF AMERICA)
)
VS.) NO. 18-CR-02753-KG
)
EDWARD FLEMING)
)

Defendant, EDWARD FLEMING, by and through his attorney of record, ORLANDO MONDRAGON, files the This reply to both the Government and Probation's Response to Defendant's original objections.

Defendant still disputes that the money is counterfeit. Defendant alleges that he obtained the alleged counterfeit money from wish.com website. Attached hereto is the description of that money. The description states that the money appears and looks realistic on camera, but the prop money does not have working holograms and does not feel like real USA currency due to law. The recent discovery provides pictures of the alleged counterfeit money, but the images appear as the ones listed on the wish.com website; therefore, Defendant still maintains the position that the money is not counterfeit, but play money that is legally obtainable through the wish.com website.¹

Defendant still maintains the position that it was not methamphetamine. He further alleges that on his date of his arrest, the ATF agents advised him that the lab test was negative for methamphetamine or any drug. The Forensic lab evidence receipt alleges that it was

methamphetamine, but we still do not have a lab report to confirm it was methamphetamine. Therefore, Defendant still objects to this increase.

The government response alleges that since Defendant admitted he traded guns for drugs, the enhancement is applicable. The Government relies on *United States v. Luke – Sanchez*, 483 F.3d 703 (10th Cir. 2007). In that case, the Defendant traded guns for methamphetamines and was charged with drug distribution and possession of a firearm in furtherance of a drug trafficking crime. Mr. Fleming has been charged with neither in this case. Again there is no lab report to show that the alleged methamphetamine that was traded was in fact methamphetamine. Defendant stands by his position that there is no lab report to prove that it was in fact methamphetamine so the enhancement does not apply.

CONCLUSION

Therefore, considering all the facts, the evidence does not support a four level upward adjustment under U.S.S. G. §2K2.1(b)(6). Defendant requests an evidentiary hearing and would ask the Court to make the final determination as to whether the §2K2.1(b)(6) level increase applies

Respectfully submitted,

/s/ Orlando Mondragon
ORLANDO MONDRAGON
Attorney for Defendant
SBN: 21803
1028 Rio Grande
El Paso, TX 79902
(915) 566-8181

¹ Defendant alleges that the play money was for his granddaughters.

CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2019, I electronically filed the foregoing Reply using the CM/ECF system, which will send notification of such filing to the Assistant United States Attorney assigned to this case.

/s/ ORLANDO MONDRAGON
Attorney for Defendant